

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

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IN RE: EPHEDRA PRODUCTS LIABILITY :
LITIGATION :

:

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Pertains to: :

:

Harbir Singh, et al. v. Herbalife :

International Communications, Inc. :

et al. :

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DEPOSITION OF VASILE PANAIT

Aventura, Florida

Tuesday, December 5, 2006

Reported By:

JODY L. WARREN, RPR

JOB NO. 9646

December 5, 2006
8:23 a.m.

Deposition of VASILE PANAIT, held
at 18181 NE 31st Court, Aventura,
Florida, pursuant to Notice, before
Jody L. Warren, Registered Professional
Reporter and Notary Public of the State
of Florida.

A P P E A R A N C E S:

RHEINGOLD, VALET, RHEINGOLD,
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Attorneys for Plaintiff

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BY: FREDERICK R. McGOWEN, ESQ.

I N D E X

WITNESS: DIRECT CROSS
VASILE PANAIT
By Mr. McGowen: 3

N O E X H I B I T S M A R K E D

P R O C E E D I N G S

Deposition taken before Jody L. Warren,
Registered Professional Reporter and Notary Public
in and for the State of Florida at Large, in the
above cause.

Thereupon,

VASILE PANAIT

having been first duly sworn or affirmed, was
examined and testified as follows:

DIRECT EXAMINATION

BY MR. McGOWEN:

Q. Good morning, Mr. Panait.

Am I pronouncing this correctly?

A. Yes, sir.

**Q. My name is Fred McGowen. I'm a lawyer for
a law firm called Goodwin Procter. Goodwin Procter
represents Herbalife and Steve Peterson in a case
that's been commenced by Mr. Singh and Ms. Cargata.**

**Have you ever given a deposition like this
before?**

A. No, sir.

**Q. Well, everything that we say is being
recorded. So it's important that your answers be**

1 verbal and not a nod of the head or change of the
2 expression because the court reporter cannot take
3 that down.

4 A. Understood.

5 Q. It's important that we not talk at the
6 same time. If we're talking at the same time, the
7 court reporter can't get down what each of us are
8 saying. If you want to take a break at any time,
9 just say so, we'll take a break.

10 Where do you currently reside, Mr. Panait?

11 A. I reside at 18181 NE 31st Court, Aventura,
12 Florida 33160.

13 Q. And how long have you lived there?

14 A. Since 2000.

15 Q. Okay, since 2000. And who do you live
16 there with?

17 A. By myself.

18 Q. Okay. Were you living in Florida before
19 2000?

20 A. Yes, sir.

21 Q. Okay. What is your highest level of
22 education?

23 A. Three years of college.

24 Q. And were you specializing or focusing on a
25 particular type of study?

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1 A. Electrical engineering. This was in
2 Romania.

3 Q. Were you born in Romania?

4 A. Yes, sir.

5 Q. And when did you first come to the United
6 States?

7 A. June 1979.

8 Q. Are you employed or self-employed?

9 A. I'm employed.

10 Q. And who's your employer?

11 A. I work -- actually, I have two jobs. I
12 work for Bloomingdale's and I work for Newbridge
13 Networks -- Newbridge Securities. I'm sorry.

14 Q. Do you own any businesses currently?

15 A. No.

16 Q. And have you ever owned a business?

17 A. No.

18 Q. Are you familiar with a business called
19 A Rose For All Occasions?

20 A. Never heard of it.

21 Q. Are you familiar with a location at 1542
22 Tyler Street --

23 A. No.

24 Q. -- in Hollywood, Florida?

25 A. No.

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1 Q. Are you familiar with a business called
2 DVM Distributors?

3 A. No.

4 Q. Do you know anyone else named Vasile
5 Panait?

6 A. Actually, there is somebody. I found
7 out -- in July, I found out. When I went to work
8 for Newbridge Securities, some other guy came over
9 and -- that name Tyler sounds familiar because he --
10 I don't know. There was something about not
11 paying -- I don't even know if it was bankruptcy or
12 something like that, and I said, "What the hell is
13 this?"

14 And then, because I work in the securities
15 business, Compliance showed me another Vasile Panait
16 from Hollywood, Tyler. Actually, it's Hollywood,
17 Tyler Street, or something like that.

18 Q. Right.

19 A. That name sounds familiar. Because I was
20 flabbergasted when I saw that on paper, that someone
21 has the same name and, you know, there is a little
22 bit of a different background on that person. And I
23 found that out for the first time in July of this
24 year.

25 Q. What is the nature of your work at

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1 Newbridge Securities?

2 A. I'm a stockbroker.

3 Q. And what is the nature of your work at
4 Bloomingdale's?

5 A. I'm a sales associate. I sell luggage.

6 Q. Okay. Have you ever been employed in any
7 sort of healthcare type of field?

8 A. No, sir.

9 Q. Have you ever sold or distributed
10 nutritional supplements?

11 A. No, sir.

12 Q. Have you ever ingested an
13 ephedra-containing product?

14 A. Don't know what it is.

15 Q. Have you ever heard of ma huang?

16 A. Never heard of it.

17 Q. Did you do anything to prepare for the
18 deposition today?

19 A. No, sir.

20 Q. Didn't read anything?

21 A. No, sir.

22 Q. Now, I know you've had a brief
23 conversation with Mr. Rheingold about this lawsuit,
24 about this deposition, and you had a conversation
25 with me about this deposition.

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1 A. Yes, sir.

2 **Q. Is there anyone else who you talked to**
3 **about having a deposition in this case?**

4 A. No, sir.

5 **Q. Is there anyone else who you've spoken to**
6 **with respect to this lawsuit?**

7 A. No, sir.

8 **Q. Okay. When's the last time you spoke to**
9 **Ms. Cargata?**

10 A. About a week ago. They were trying to get
11 me and, actually, Harry got ahold of me first. I
12 was at home that day. Then he gave me a phone
13 number, a cell number and the work number, and the
14 same night I called and I was able to talk to her.
15 We didn't really talk about this. We talked -- I
16 haven't talked to her in years, so it was just
17 shooting the breeze, really.

18 **Q. Okay. And when you say "Harry," you mean**
19 **Mr. Singh, right?**

20 A. Yes, sir, Mr. Singh.

21 **Q. Mr. Harbir Singh?**

22 A. Mr. Harbir Singh.

23 **Q. Before this last time that you spoke to**
24 **Ms. Cargata, when was the last time that you spoke**
25 **to --**

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1 A. I don't remember the exact dates. It's
2 been years.

3 **Q. Before this last time you spoke with**
4 **Ms. Cargata, did you know that Mr. Singh had a**
5 **stroke?**

6 A. I wasn't aware for quite some time. I
7 don't remember how long, but it just -- Doina told
8 me that he had a stroke, but I don't remember when.
9 I don't remember. Because I didn't talk to her for
10 years, I don't remember when."

11 **Q. When you say "Doina," you mean**
12 **Ms. Cargata?**

13 A. Ms. Cargata, yes.

14 **Q. So she had told you at some prior point**
15 **that Mr. Singh had had a stroke?**

16 A. Yes. As far as I recall, she's the only
17 one that told me. I believe she's the one. I don't
18 recall if it's 100 percent, but I would assume she
19 had to be the one that told me. That's how I came
20 about to find out.

21 **Q. And that was at some point before this**
22 **very last conversation you had with Ms. Cargata?**

23 A. Obviously, yes, sir.

24 **Q. Mr. Singh's and Ms. Cargata's lawsuit**
25 **concerns Herbalife products or a Herbalife product**

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1 **in particular.**

2 **Do you know anyone other than Mr. Singh or**
3 **Ms. Cargata who has filed a lawsuit with respect to**
4 **an Herbalife product?**

5 A. No, sir.

6 **Q. Do you know anyone who's filed a lawsuit**
7 **with respect to a nutritional supplement?**

8 A. No, sir.

9 **Q. Have you ever seen any of the documents**
10 **that have been generated in this lawsuit?**

11 A. No, sir.

12 **Q. Such as the Complaint?**

13 A. No.

14 **Q. Or what's called a fact sheet?**

15 A. No.

16 **Q. Any deposition transcripts?**

17 A. No, sir.

18 **Q. Okay. So the term "ephedra," you're not**
19 **familiar with at all?**

20 A. No, sir.

21 **Q. What about the term "ephedrine"?**

22 A. No, sir.

23 **Q. When was the first time you heard the word**
24 **"Herbalife"?**

25 A. I don't remember the exact day.

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1 **Q. Do you remember where you were the first**
2 **time you heard it?**

3 A. No, sir.

4 **Q. Do you remember who you heard it from?**

5 A. It has to be this fellow, Peterson. I
6 don't remember when, how, but it has to be obviously
7 from this Peterson. The name sounds familiar now.
8 I didn't remember the name, but then when in
9 conversation Peterson came up, it became kind of
10 fresh in my mind.

11 **Q. You mean when I mentioned his name a**
12 **minute ago?**

13 A. Yourself and, I believe, David. When
14 David talked to me on the phone, he mentioned the
15 name a couple of times and it kind of -- the name
16 kind of became -- I mean, it was somewhat familiar.

17 **Q. And when you say "David," you mean**
18 **Mr. Rheingold, right?**

19 A. Yes, sir.

20 **Q. So what did Mr. Rheingold say about**
21 **Mr. Peterson?**

22 A. Nothing.

23 **Q. Nothing, he just --**

24 A. He just mentioned -- I don't know how it
25 was said, but the name was mentioned. I don't

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1 remember. In conversation, it was mentioned.

2 **Q. Who is Mr. Peterson?**

3 A. I mean, he's a rep with Herbalife.

4 **Q. And so you don't remember where you first**
5 **met him?**

6 A. Zero recollection. I don't remember.

7 **Q. Did you ever meet him face-to-face?**

8 A. I don't remember if I met him or not.

9 **Q. Okay. For what reason did you communicate**
10 **with Mr. Peterson?**

11 A. The only thing I can think of is had to
12 be -- he must have approached me to get into the
13 business. I don't remember how I met him. How it
14 was, I don't remember at all. But it had to be -- I
15 know this is a multi-level marketing product, so it
16 had to be to get me in the business.

17 **Q. And when you say "get me in the business,"**
18 **you mean for you to become an Herbalife distributor?**

19 A. Yes.

20 **Q. Is that something you considered doing at**
21 **one point?**

22 A. No.

23 **Q. Okay. So you did not seek out**
24 **Mr. Peterson, Mr. Peterson sought you out; is that**
25 **what you're saying?**

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1 A. I don't remember how it went. I do not
2 remember at all.

3 **Q. Okay. All right. And do you know if this**
4 **was as many as -- were you living where you live now**
5 **when you first encountered Mr. Peterson?**

6 A. I don't remember the dates I met him, so I
7 can't tell you if I lived here or not.

8 **Q. Do you remember where you were working at**
9 **that time?**

10 A. If I don't remember the date, I cannot
11 tell you where I was working.

12 **Q. Right. To the extent you can, can you**
13 **approximate when this was?**

14 A. Not at all.

15 **Q. More than ten years ago?**

16 A. No, it wasn't ten years. Because I've
17 been here since 1998, so that's not more than ten
18 years.

19 **Q. Do you remember roughly how many years you**
20 **have been here?**

21 A. I don't -- over here?

22 **Q. Yes.**

23 A. I told you at the beginning I've been here
24 since 2000.

25 **Q. Right. From where in 1998 and from where**

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1 **in 2000? You've been at this current residence**
2 **since 2000?**

3 A. No. I did say to you, from the beginning,
4 I lived here. You asked me when I started living in
5 this place and I told you I lived here from 2000 up
6 to now.

7 **Q. Right. And then from 1998 -- in 1998, is**
8 **that when you first came to the United States?**

9 A. No, I didn't say that.

10 **Q. Okay.**

11 A. I said I've been in Florida since 1998. I
12 did tell you I've been in this country since 1979.

13 **Q. Okay. Right.**

14 A. Right.

15 **Q. Now, do you remember how long after 1998,**
16 **roughly how many years it was, that you first**
17 **encountered Mr. Peterson?**

18 A. I'm going to give you the same answer, I
19 don't remember.

20 **Q. I'm asking you if you can approximate. I**
21 **know you can't --**

22 A. But I can't. If I don't remember, how can
23 I approximate?

24 **Q. Okay. All right.**

25 A. I'd be guessing, and I can't guess. I

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1 don't remember.

2 **Q. As long as you've indicated on the record**
3 **that this is an approximation, it is all right to do**
4 **that. That's what I was asking.**

5 A. Unfortunately, I can't make that statement
6 because I cannot. I don't remember.

7 **Q. Okay. All right. Now, did you ever**
8 **review any documentation about Herbalife products**
9 **when the issue of your becoming -- potentially**
10 **becoming a distributor was raised?**

11 A. I don't remember that either.

12 **Q. Did you find out anything about Herbalife**
13 **products at all at that time?**

14 A. Don't remember.

15 **Q. How long after the first time you**
16 **encountered Mr. Peterson did you encounter him**
17 **again?**

18 A. I don't remember if I've ever seen this
19 guy again or even if I met him once. I still don't
20 remember that.

21 **Q. Did you ever purchase Herbalife products**
22 **from Mr. Peterson?**

23 A. Yes, sir. I'm 90 percent sure I purchased
24 it for my daughter. If I were to guess, I spent
25 about \$100 and I purchased -- I don't remember if I

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1 bought one or three, but as far as I remember, I
2 purchased -- my daughter had a weight problem and I
3 purchased either one or three bottles, maybe for
4 \$100.

5 **Q. Okay. Was this all at once or separate**
6 **purchases?**

7 A. If I were to -- this, I believe it was in
8 one shot.

9 **Q. Okay.**

10 A. Because I never went back.

11 **Q. And did you research the product prior to**
12 **purchasing products for your daughter?**

13 A. As I said to you before, I don't remember
14 if I researched the product. You asked me that
15 question two seconds ago, and I don't remember if I
16 researched the product.

17 **Q. Did you have any concerns whether the**
18 **product was appropriate for your daughter to take?**

19 A. If I would have had concerns, I would have
20 never purchased the product. So I would assume I
21 was a little bit ignorant and I just purchased it.
22 I guess I took it face value, that it works and I
23 purchased it.

24 **Q. Do you, today, have any thoughts that**
25 **Herbalife products are either unsafe or don't work?**

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1 A. I don't know.

2 **Q. Okay. What products did you purchase for**
3 **your daughter?**

4 A. I don't remember.

5 **Q. Was it one product or more than one?**

6 A. As I said to you before, it could have
7 been one bottle or three bottles. Most likely, I
8 purchased three bottles. What I purchased, I don't
9 remember.

10 **Q. Now, when I say one product or more than**
11 **one, I mean Herbalife makes a number of products.**
12 **So did you purchase only one bottle or one product**
13 **and maybe three bottles of it or three different**
14 **products?**

15 A. Don't remember.

16 **Q. Was what you purchased a line of products**
17 **or a group of products?**

18 A. I don't remember.

19 **Q. When your daughter was taking -- did your**
20 **daughter take the product?**

21 A. Don't know.

22 **Q. Was she living with you at the time?**

23 A. No, sir.

24 **Q. Was she living in the New York City area**
25 **at that time?**

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1 A. Yes, sir.

2 **Q. And was she a college student at that**
3 **time?**

4 A. I can't answer that question because I
5 don't remember the day I purchased it. So based on
6 that, I wouldn't know if she was a college student
7 or not.

8 **Q. Has she ever lived in Florida?**

9 A. She lived in Florida for six months.

10 **Q. And was she living with you at the -- did**
11 **she live with you when she was in Florida?**

12 A. Yes.

13 **Q. Was she living with you at the time that**
14 **you purchased Herbalife products for her?**

15 A. I just told you earlier, the product was
16 sent to my daughter in New York. So you're asking
17 me a question that doesn't make any sense. I can't
18 give you the answer.

19 **Q. All right. Mr. Panait, this really is not**
20 **an exercise in my trying to trick you or --**

21 A. No, but I mean --

22 **Q. -- or wordsmith with you. I'm just trying**
23 **to move things along as quickly as I can because I**
24 **know you have a limited amount of time. So to the**
25 **extent that you can be helpful and not challenge me**

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1 **in my questioning, it would --**

2 A. Okay. But from my point --

3 THE REPORTER: I'm sorry. He needs to
4 finish his question before you answer.

5 **Q. I'm finished.**

6 A. I'm done. I'm sorry. Go ahead.

7 **Q. Okay. Now, I understand that you just**
8 **said the product was shipped to your daughter in New**
9 **York.**

10 A. Yes, sir.

11 **Q. So was this at some point before or at**
12 **some point after she stayed here in Florida with**
13 **you?**

14 A. Don't remember.

15 **Q. Do you remember when you first began**
16 **having concerns about your daughter's weight?**

17 A. Pardon me?

18 **Q. About your daughter's weight.**

19 A. I didn't have concerns. It was an
20 aesthetic situation, that I wanted my daughter to be
21 skinny.

22 **Q. Who brought that issue up first, your**
23 **daughter or yourself?**

24 A. It was myself.

25 **Q. Okay. And had she -- how old is your**

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1 **daughter now?**
2 A. Twenty-three.
3 **Q. Is she still -- is she a college student**
4 **now?**
5 A. Yes.
6 **Q. Okay. Was it before or after she began**
7 **college that she spent six months here in Florida**
8 **with you?**
9 A. She came over when she was 18 years old.
10 **Q. Was that before or after she began**
11 **college?**
12 A. She came -- right after high school, she
13 came to Florida. So she started going to college
14 over here in Miami-Dade at 18.
15 **Q. Okay. At that point, had you purchased**
16 **Herbalife products for her?**
17 A. I don't remember. Again, I'm going to put
18 this on record, when my daughter was with me, I did
19 not purchase Herbalife when she was here with me,
20 when she lived with me.
21 **Q. I'm just trying to figure out if it was**
22 **before or after the summer between high school and**
23 **college or that interim of time.**
24 A. I don't remember. I don't remember.
25 **Q. Did your daughter ever tell you anything**

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1 **in connection with her taking these products?**
2 A. No, sir.
3 **Q. Did she lose weight from taking the**
4 **products?**
5 A. Don't know, sir.
6 **Q. When did you first meet Ms. Cargata?**
7 A. It was in the nineties. I don't remember
8 exactly the date, but I would assume in the early
9 nineties. It was right after she came to this
10 country. I don't remember when she came.
11 **Q. And did you ever know her in Romania?**
12 A. No.
13 **Q. And what were the circumstances under**
14 **which you and Ms. Cargata met?**
15 A. She's the sister of my friend.
16 **Q. Did you know her friend -- sister of your**
17 **friend. Did you know her brother in Romania?**
18 A. Yes, sir.
19 **Q. And what's her brother's name?**
20 A. Cris, Cristi.
21 **Q. And what's his last name?**
22 A. Simoiu.
23 **Q. And when did you first meet Mr. Simoiu?**
24 A. When I was 18 years old, 19.
25 **Q. And what were the circumstances under**

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1 **which the two of you met?**
2 A. I was a college student. I met him in
3 Athena Palace, which is a restaurant, a nightclub,
4 where I used to frequent.
5 **Q. And when you first met Ms. Cargata, where**
6 **did you meet her?**
7 A. That, I remember. I'm 50 years old. I
8 remember things from 20 years ago. I don't remember
9 things from yesterday.
10 She just came -- she just moved to the USA
11 and I would remember this because she was working at
12 a restaurant, you know, and I don't remember exactly
13 where. I know it was -- it wasn't in New York. It
14 was somewhere three, four hours away or something.
15 And I met her, I was with my friend, and we visited
16 her. That's when I met her for the first time. I
17 don't remember the time, but I know it was more or
18 less within a year or two before she came in this
19 country.
20 **Q. A year or two before?**
21 A. I mean after, after she arrived in this
22 country.
23 **Q. And you said this was in the New York City**
24 **area?**
25 A. No, I didn't say that.

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1 **Q. You said three or four hours --**
2 A. From what I recall, it could have been
3 two, three hours away. Where, I don't remember. I
4 don't know where. I don't remember where.
5 **Q. But it was in the Northeastern United**
6 **States?**
7 A. I don't remember that. I don't remember
8 where.
9 **Q. You said three or four hours --**
10 A. Could have been south, west, north. I
11 don't remember where, which town.
12 **Q. Three or four hours from where?**
13 A. From New York City. Because I used to
14 live in New York. Could have been two hours, could
15 have been an hour and a half.
16 **Q. You don't know what state you were in at**
17 **the time?**
18 A. No. I said I lived in New York at the
19 time.
20 **Q. I'm asking you where you met Ms. Cargata.**
21 A. Again, I'm going to say this again. I met
22 her, from what I recall, in a restaurant which was
23 out of the area. I remember driving a couple hours
24 away and where, I don't know where.
25 **Q. Let's slow down. Three or four hours from**

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1 **New York City is where this restaurant was?**

2 A. From New York, from New York. Yeah, I
3 used to live in Astoria, Queens. So...

4 **Q. And what state were you in when you met**
5 **Ms. Cargata?**

6 A. I don't remember what state.

7 **Q. Were you with any other people when you**
8 **met Ms. Cargata?**

9 A. As I said earlier, I was with my friend,
10 her brother.

11 **Q. So the two of you took this drive to meet**
12 **Ms. Cargata?**

13 A. Yes.

14 **Q. And you were coming from where you lived**
15 **in Queens?**

16 A. Could have been from Queens. Could have
17 been -- I don't remember from where, but could have
18 been from Queens.

19 **Q. And where you met Ms. Cargata, is that**
20 **where she was living at the time?**

21 A. I don't know where she was living.

22 **Q. Do you know why she was in that location**
23 **where you went?**

24 A. No, I don't.

25 **Q. You said you met her at a restaurant.**

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1 A. I remember meeting her at her workplace.

2 **Q. At her workplace, okay. So where you went**
3 **to is where she worked?**

4 A. She was working, yes.

5 **Q. Where does Ms. Cargata's brother live now?**

6 A. Romania.

7 **Q. When did he return to Romania?**

8 A. Could have been five years ago.

9 **Q. And since that time, have you seen**
10 **Ms. Cargata?**

11 A. No. I don't -- it's very possible that I
12 saw her once. I had to go to New York to see my
13 daughter and it's possible I saw her once at her
14 workplace, you know, where she works in Manhattan.

15 **Q. Where she currently works?**

16 A. Yes.

17 **Q. Okay. Was there a particular reason for**
18 **you seeing Ms. Cargata at her workplace within the**
19 **past five years or so?**

20 A. She's a sister of my friend. Out of
21 courtesy, I went to say hello.

22 **Q. All right. And at that time, did you have**
23 **any discussion with Ms. Cargata about Herbalife**
24 **products?**

25 A. No, sir.

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1 **Q. Did you see Mr. Singh during that visit?**

2 A. I don't remember.

3 **Q. All right. Since Ms. Cargata's brother**
4 **returned to Romania, have you seen Mr. Singh?**

5 A. I don't remember. I don't remember.

6 **Q. All right. Do you have any recollection**
7 **of ever having a discussion about Herbalife products**
8 **with either Mr. Singh or Ms. Cargata?**

9 A. I don't remember.

10 **Q. All right. Did you discuss Herbalife**
11 **products with Ms. Cargata when you spoke with her**
12 **about a week ago?**

13 A. I don't remember. I don't think so. I
14 don't remember.

15 **Q. Did you discuss what this lawsuit was**
16 **about?**

17 A. No.

18 **Q. Did you discuss that your deposition was**
19 **being sought in this lawsuit?**

20 A. Not with her. With Harry -- Harry called.
21 When he called a week ago and I asked him, what's
22 the deal that you're calling me. You know, because
23 I've been trying to call you, I've been trying to
24 call you. And he wouldn't tell me at the beginning
25 because somebody else was around. And then he

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1 mentioned the fact there's, you know, maybe a
2 deposition. And this was from Harry.

3 That I remember because I asked him
4 specifically. There's always a reason, people call
5 for a reason. You don't talk to somebody for five
6 years or three years or two years and ask what's
7 going on. And that's when he mentioned to me about
8 this possible deposition, but he needed to get my
9 number -- to talk to me and then, I guess, I talked
10 to David after that. But we did not elaborate
11 anything. It was just brief, short to the point,
12 and that was it.

13 **Q. You said someone had been trying to call**
14 **someone else. So had you received a message and you**
15 **were trying to return his call?**

16 A. No, I didn't try. Harry said to me, I've
17 been trying to call you, and told me my message --
18 what do you call this when people try to leave
19 messages? It was full. Not people, he tried to
20 call me.

21 **Q. Okay. When you spoke to Mr. Rheingold,**
22 **did he mention Herbalife products?**

23 A. Mr. Rheingold mentioned he's the lawyer
24 and he mentioned there's going to be a deposition.

25 **Q. And has anyone told you why your**

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1 deposition has been sought in this case?

2 A. I was told that you wanted my deposition,
3 that you -- you're the one that wants to talk to me.

4 Q. Do you have any recollection -- other than
5 these very recent telephone conversations that you
6 had with Mr. Singh or Ms. Cargata, do you have any
7 recollection of ever discussing Herbalife products
8 with either one of them?

9 A. No.

10 Q. Do you have any recollection of giving
11 either Mr. Singh or Ms. Cargata a phone number for
12 Mr. Peterson?

13 A. No. But I would assume I've given the
14 number. If you're telling me they were in contact
15 to purchase the product, it's common sense, I must
16 have given them the contact, the number. But I
17 don't remember.

18 Q. Why do you say you must have done that?

19 A. Because, logically, if I purchased a
20 product for my daughter, then I must have given him
21 the contact, you know, Peterson. I mean, it's --
22 that's why I'm saying this.

23 Q. Which came first, your -- whatever
24 discussion you had with Mr. Peterson concerning
25 being an Herbalife distributor or your purchasing

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1 products for your daughter, which came first?

2 A. I don't remember.

3 Q. Do you recall one of the products that
4 your daughter using or that you bought for your
5 daughter being a shake?

6 A. I don't remember, sir.

7 Q. Have you ever gone to Herbalife's website
8 on the Internet?

9 A. I don't remember.

10 Q. Have you ever heard about Herbalife in the
11 news?

12 A. I've seen it on -- advertised on cars, I
13 believe, or something.

14 Q. Okay. When is the last time you saw that?

15 A. I don't remember.

16 Q. Is this like a bumper sticker or something
17 on a car?

18 A. I believe so, yeah.

19 Q. Do these bumper stickers have phone
20 numbers on them?

21 A. I don't remember.

22 Q. Other than Mr. Peterson, do you know any
23 other distributor of Herbalife products?

24 A. No, I don't know anybody.

25 Q. Have you provided financial services or

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1 advice to either Mr. Singh or Ms. Cargata?

2 A. Yes, I did.

3 Q. When did you first do that?

4 A. I don't remember the exact date, but it
5 was -- I remember one thing -- when they were my
6 clients. So it had to be in the nineties up to 2001
7 when I left Advest, which was a brokerage firm. So
8 it was the nineties, late nineties. Then I know
9 after I left Advest, which was in 2001, we didn't do
10 business anymore. I'm not sure if it was 2001 or
11 2002.

12 Q. And were you a broker for Mr. Singh or
13 Ms. Cargata?

14 A. Yes.

15 Q. For one or both?

16 A. Both. I don't remember that exactly. It
17 could have been for both.

18 Q. Who did you communicate with with respect
19 to --

20 A. It had to be for both because I talked to
21 Harry a lot, too. It had to be for both. I talked
22 to both of them.

23 Q. So what services did you provide?

24 A. Stocks.

25 Q. That's it?

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1 A. Yes.

2 Q. Okay. And who would choose the stocks
3 that they would invest in?

4 A. I -- I mean, I recommended stocks and they
5 would come up with ideas, too. It was a mutual --
6 mutual thing.

7 Q. Okay. So this relationship, this broker
8 relationship, that you had with them lasted three or
9 four years?

10 A. It's very possible, yes. It could have
11 been even more, could have been even longer.

12 Q. How much money did Mr. Singh and
13 Ms. Cargata invest through you?

14 A. I don't remember the exact amount.

15 Q. And why did -- was it merely because you
16 left Advest or for any other reason that you
17 terminated your relationship as broker with
18 Mr. Singh and Ms. Cargata?

19 A. I know -- I remember they lost money and I
20 left the business, too. I went into -- in 2000 --
21 that's why I don't remember when. I don't remember
22 exactly, but I was with them when I was at Advest.
23 When I left the business, I went to work for Kaplan
24 University in January 2003. So it could have been a
25 combination of losing money and my suddenly leaving

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1 the business.

2 **Q. Do you remember any particular stocks that**
3 **Ms. Cargata and Mr. Singh purchased?**

4 A. No, sir.

5 **Q. Do you know who currently is providing**
6 **financial advisor services to either Mr. Singh or**
7 **Ms. Cargata?**

8 A. No, sir.

9 **Q. Did you ever purchase any other brand of**
10 **nutritional supplement for yourself or your daughter**
11 **or anyone else?**

12 A. No, sir.

13 **Q. Do you recall ever being at Mr. Singh's**
14 **and Ms. Cargata's residence?**

15 A. I have been at Doina's apartment when I
16 went to New York and I visited. Again, I don't
17 remember when, but I stayed at her place, I believe,
18 one night or two nights. I don't remember exact.

19 **Q. Was this before she married Mr. Singh?**

20 A. It was after. I mean, I know they were
21 together. I don't remember when they got married.
22 I know they were together. They were working
23 together.

24 **Q. So when you were -- this time that you**
25 **recall being at Ms. Cargata's apartment, was**

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1 **Mr. Singh there?**

2 A. No.

3 **Q. Has Ms. Cargata ever expressed to you that**
4 **Mr. Singh was overweight?**

5 A. I don't remember.

6 **Q. Has she ever told you that she thought he**
7 **should lose weight?**

8 A. I don't remember.

9 **Q. When is the last time you spoke to**
10 **Ms. Cargata's brother, Cristi?**

11 A. Last -- over the past eight months. I'm
12 not exactly sure when, but we spoke for the past
13 eight months once.

14 **Q. And during that conversation, did you have**
15 **any discussion about Ms. Cargata or Mr. Singh?**

16 A. No.

17 **Q. You mentioned a particular type of system**
18 **of distributorship that Herbalife has.**

19 A. I didn't mention about Herbalife has. I
20 mentioned the word "multi-level marketing."

21 **Q. Okay. What is multi-level marketing?**

22 A. I mean when they bring people in to sell
23 for others.

24 **Q. Okay. Who brings people in?**

25 A. I mean, whoever. Whoever approaches you.

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1 I don't know who.

2 **Q. How do you know Herbalife has a**
3 **multi-level marketing program?**

4 A. I mean, I assume it was the old -- every
5 time somebody sells a product like that, it seems to
6 be multi-level marketing. So I assumed that. I
7 don't know if they had it or not.

8 **Q. You assumed that at what time? Today or**
9 **at some prior time?**

10 A. Pardon me?

11 **Q. When did you start to assume that**
12 **Herbalife had a multi-level marketing program? Was**
13 **that something you thought of today or did you think**
14 **of it sometime before today?**

15 A. I didn't think anything. I just said it
16 right now.

17 **Q. So you've never heard anything about**
18 **Herbalife having a multi-level marketing program**
19 **before today?**

20 A. I didn't say that. You asked me about
21 making a statement about multi-level marketing. I
22 just said it right now, right.

23 **Q. Why did you associate that with Herbalife?**

24 A. Because anytime products are sold the way
25 they're sold, they're sold based on multi-level

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1 marketing. I know this much. I'm in sales. I've
2 seen it with Excel and it's the same system. And I
3 assumed that they'd be in the same thing, same style
4 of doing business, multi-level marketing.

5 **Q. So when, before today, had you made the**
6 **association between Herbalife and multi-level**
7 **marketing?**

8 A. When before today?

9 **Q. Yes.**

10 A. I mean if I were to say that, I would have
11 assumed that from the moment this Peterson and I
12 talked, I would have assumed it was multi-level
13 marketing.

14 **Q. But you have no recollection of anybody**
15 **ever telling you that Herbalife had a multi-level**
16 **marketing program or reading that somewhere?**

17 A. No.

18 **Q. The time that you can recall being at**
19 **Ms. Cargata's apartment, approximately when was**
20 **that?**

21 A. Don't remember.

22 **Q. Do you know why you were in New York at**
23 **that time?**

24 A. I mean, I don't remember why. It could
25 have been just maybe went to see my daughter or went

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1 to see a client. I don't remember exactly why those
2 two could have been.

3 **Q. Was Ms. Cargata's brother in the New York**
4 **area at that time?**

5 A. I don't remember.

6 **Q. Have you ever been to Ms. Cargata's**
7 **current residence?**

8 A. I don't know her current residence.

9 **Q. Okay. Do you know any of Mr. Singh's**
10 **brothers or sisters?**

11 A. No.

12 **Q. Do you know their names, any of their**
13 **names?**

14 A. If I don't know them, I wouldn't know
15 their names either. No. No, I don't know their
16 names.

17 **Q. All right. Thank you.**

18 **Do you have any information, such as a**
19 **business card or any other sort of documentation,**
20 **relating to Mr. Peterson?**

21 A. No, sir.

22 **Q. Do you remember whether you ever had a**
23 **business card --**

24 A. No, I don't remember.

25 **Q. -- of Mr. Peterson's?**

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1 A. No.

2 **Q. The Herbalife products that you purchased**
3 **for your daughter, did you read the labels on them?**

4 A. Don't remember.

5 **Q. Do you remember actually giving the**
6 **products to her?**

7 A. Again, as I said earlier, I had the
8 product shipped to my daughter.

9 **Q. Was she expecting them? Did she know they**
10 **were coming?**

11 A. I told her I would send them.

12 **Q. And so after that, did she ever**
13 **acknowledge getting them?**

14 A. I don't remember.

15 **Q. Do you remember how much you spent on the**
16 **products?**

17 A. As I said previously, it could have
18 been -- from what I remember, it could have been
19 close to \$100.

20 **Q. Do you remember the method of payment that**
21 **you used?**

22 A. It's most likely a credit card.

23 **Q. Do you remember what credit card it was?**

24 A. No.

25 **Q. Do you still have that credit card?**

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1 A. If I don't remember what credit card, I
2 wouldn't -- I don't remember anything about that,
3 which credit card.

4 **Q. Do you remember ever having any discussion**
5 **at all with your daughter concerning Herbalife**
6 **products?**

7 A. No.

8 **Q. Was this just a surprise gift that you**
9 **sent to her?**

10 A. No. Most likely, I talked to her about
11 that I would send her something.

12 **Q. Okay. Did your daughter -- was she**
13 **residing with her mother at that time?**

14 A. I don't remember when I sent them, so I
15 don't -- I don't know if she was residing -- I don't
16 know.

17 **Q. If she was living in New York, where would**
18 **she have been living?**

19 A. If she would have been less than 18, she
20 would have been with her mom.

21 **Q. Okay. So did you ever have any**
22 **discussions with her mother about her taking --**

23 A. No.

24 **Q. Well, you have to let me finish the**
25 **question.**

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1 **Did you ever have any discussions with**
2 **your daughter's mother about her taking Herbalife**
3 **products?**

4 A. No.

5 **Q. Is your daughter's name Nicole?**

6 A. Yes.

7 **Q. What is her mother's name?**

8 A. Lori.

9 **Q. And what is her mother's last name?**

10 A. Rinaldo.

11 **Q. And where does she reside?**

12 A. New York.

13 **Q. And what's her street address?**

14 A. Don't know it.

15 **Q. You don't know her street address? If you**
16 **wanted to contact her, how would you do it?**

17 A. I haven't spoken with my ex-wife for ten
18 years.

19 **Q. If you wanted to contact her, how would**
20 **you do it?**

21 A. I would have to call my daughter.

22 **Q. And what is your daughter's address?**

23 A. I don't have the new address. She just
24 moved a couple of months ago. So I don't
25 remember -- I don't know.

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1 **Q. But you have a phone number for her; is**
2 **that correct?**

3 A. Yes.

4 **Q. Is your daughter married?**

5 A. No.

6 **Q. Do you have any reason to believe that**
7 **your daughter had any -- experienced any side**
8 **effects from taking Herbalife products?**

9 A. Don't know.

10 **Q. But do you have any reason to believe**
11 **that, that she did?**

12 MR. SCHONFELD: Just note my objection.

13 A. I don't.

14 **Q. You don't know if you have a reason to**
15 **believe that or what? How are you --**

16 A. Could you rephrase the question, please?

17 **Q. Do you have any reason to believe that**
18 **your daughter experienced any side effects from**
19 **taking Herbalife products?**

20 A. It never crossed my mind. That reason to
21 believe never crossed my mind.

22 MR. SCHONFELD: Just note my objection for
23 the record. I don't think we've established
24 that she actually took the product, just that
25 it was delivered to her.

1 **Q. Did you ever observe Mr. Singh and believe**
2 **that he was overweight?**

3 A. No, sir.

4 **Q. Have you ever participated in any**
5 **activities with Mr. Singh, such as going to the gym**
6 **or going to a game or anything like that?**

7 A. No, sir.

8 **Q. How many times would you estimate you've**
9 **seen Mr. Singh?**

10 A. Guess estimate, four or five times, maybe
11 less.

12 **Q. And how many times have you seen**
13 **Ms. Cargata?**

14 A. I would say about the same, maybe a couple
15 of times more. Maybe two or three times more maybe.

16 **Q. And have you ever seen Mr. Singh when**
17 **Ms. Cargata was not present?**

18 A. Pardon me?

19 **Q. Have you ever seen Mr. Singh when**
20 **Ms. Cargata was not present?**

21 A. Yes.

22 **Q. What instances can you recall?**

23 A. I've seen him -- for example, I went to
24 see Doina and she wasn't there and he was there.
25 That's why I saw him, you know, saw him only. And

1 they had two stores. Sometimes she was in one store
2 and he was in the other, so I walked into the wrong
3 store looking for her and he was there.

4 **Q. So it was one of the two stores where you**
5 **saw him?**

6 A. Yes.

7 **Q. All right. Have you ever observed**
8 **Mr. Singh and believed that he was not feeling well?**

9 A. I'm not a doctor. No, never crossed my
10 mind.

11 **Q. I'm just asking for your layman's opinion.**

12 A. Pardon me?

13 **Q. I understand you're not a physician. I'm**
14 **just asking from your own perspective, in your own**
15 **opinion --**

16 A. Never saw him that way.

17 **Q. Have you ever loaned any money to**
18 **Mr. Singh or Ms. Cargata?**

19 A. No.

20 **Q. Have they ever asked you for a loan?**

21 A. No.

22 **Q. Have you ever vacationed with either**
23 **Mr. Singh or Ms. Cargata?**

24 A. No.

25 **Q. Have you ever heard of a company called**

1 **Metabolife?**

2 A. The name sounds familiar. I mean, I've
3 heard the name.

4 **Q. Okay. And what do you associate with the**
5 **name Metabolife?**

6 A. I don't associate it with anything.

7 **Q. Have you ever heard the name Twin Lab?**

8 A. Never heard of that.

9 **Q. Has Ms. Cargata ever told you that -- told**
10 **you of any difficulties in her marriage with**
11 **Mr. Singh?**

12 A. She never talked to me about anything.

13 **Q. Has Mr. Singh told you of any difficulties**
14 **in his marriage with Ms. Cargata?**

15 A. No.

16 **Q. Have you ever recommended an attorney to**
17 **either Ms. Cargata or Mr. Singh?**

18 A. Recommended an attorney, I don't remember.

19 **Q. Did you have any involvement with the**
20 **formation of any business that Mr. Singh or**
21 **Ms. Cargata had an ownership interest in?**

22 A. No.

23 **Q. Have you ever communicated with the Food**
24 **and Drug Administration?**

25 A. No.

1 MR. McGOWEN: All right. Thank you,
 2 Mr. Panait.
 3 THE WITNESS: You're welcome.
 4 MR. McGOWEN: Do you have any questions?
 5 MR. SCHONFELD: I don't think so. Just
 6 wait one second before you close the record.
 7 No, I'm done.
 8 MR. McGOWEN: One last thing, Mr. Panait.
 9 It's procedurally correct for witnesses to --
 10 nonparty witnesses to be served with a
 11 subpoena. And I am just going to hand you a
 12 subpoena so that I have complied with that
 13 procedure. And that's it.
 14 THE WITNESS: Do I have --
 15 MR. McGOWEN: I know you appeared
 16 voluntarily after speaking with Mr. Rheingold.
 17 This is just --
 18 THE WITNESS: A formality.
 19 MR. McGOWEN: A formality, yes.
 20 MR. SCHONFELD: The subpoena does not
 21 require him to do anything more than he has
 22 already done; is that correct?
 23 MR. McGOWEN: That's correct.
 24 THE WITNESS: That's what I wanted --
 25 MR. SCHONFELD: That's what he wanted to

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1 know.
 2 MR. McGOWEN: In terms of showing up here
 3 today, yes. So we're done.

4 - - -

5 (Thereupon, the deposition was concluded
 6 at or about 9:18 a.m.)

12
 13 _____
 14 VASILE PANAIT

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1 THE STATE OF FLORIDA)
 2 COUNTY OF DADE)
 3
 4 I, the undersigned authority, certify that
 5 the witness personally appeared before me and was
 6 duly sworn.

7
 8 WITNESS my hand and official seal this
 9 11th day of December, 2006.

10
 11
 12
 13 _____
 14 JODY L. WARREN, RPR
 15 Notary Public-State of Florida
 16 My Commission: DD184704
 17 My Commission Expires: 02/28/07

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1 C E R T I F I C A T E
 2
 3 THE STATE OF FLORIDA)
 4 COUNTY OF DADE)
 5

6 I, Jody L. Warren, Registered Professional
 7 Reporter, State of Florida at Large, do hereby
 8 certify that the aforementioned witness was by me
 9 first duly sworn to testify the whole truth; that I
 10 was authorized to and did report said deposition in
 11 stenotype; and that the foregoing pages, numbered
 12 from 1 to 49, inclusive, are a true and correct
 13 transcription of my shorthand notes of said
 14 deposition.

15 I further certify that said deposition was
 16 taken at the time and place hereinabove set forth
 17 and that the taking of said deposition was commenced
 18 and completed as hereinabove set out.

19 I further certify that I am not attorney
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 22 party connected with the action, nor am I
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IN WITNESS WHEREOF, I have hereunto set my
 hand this 11th day of December, 2006.

20
 21
 22 _____
 23 JODY L. WARREN, RPR
 24 Notary Public-State of Florida
 25 My Commission: DD184704
 My Commission Expires: 02/28/07

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